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UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

TERRI J. PEDATO, AS MOTHER AND *
 NEXT FRIEND OF RICHARD MORRILL *
 Plaintiff *

v. *

FRED H. ARRIGG, JR., M.D. *
 Defendant *

03 cv 12 2 23 RGS

MAGISTRATE JUDGE *Alexander*

PLAINTIFF'S COMPLAINT

THE PARTIES

1. The plaintiff, Terri J. Pedato, brings this action on behalf of her minor son, Richard Morrill, date of birth, May 17, 1992.
2. The plaintiff, Terri J. Pedato, and her minor son, Richard Morrill, are residents of Danville, New Hampshire.
3. The defendant, Fred Arrigg, Jr., M.D., at all times material hereto, is/was a physician licensed to practice medicine in the Commonwealth of Massachusetts, with a principal place of business in Lawrence, the County of Essex, Commonwealth of Massachusetts, and specialized in eye, ear, nose and throat surgery.

JURISDICTION AND VENUE

4. Jurisdiction is present pursuant to 28 USC §1332 based on diversity of citizenship involving a matter in controversy that exceeds the value of \$75,000.00.
5. Venue is present pursuant to 28 USC Section 1391 (1) (2) based on the defendant's residence and/or that a substantial part of the events or omissions giving rise to this claim occurred within the judicial district in which the case is filed.

THE FACTS

6. On or about September 9, 2000, the defendant, Fred H. Arrig, Jr., M.D., operated on the minor plaintiff, Richard Morrill, performing a revision tympanomastoidectomy to, inter alia, remove and drain a cystic area that had developed in the mastoid bowl.
7. During the surgery, unbeknownst to the plaintiff, Dr. Arrigg perforated the tympanic membrane subsequently resulting in an encephalocele, i.e., protrusion of brain matter through the perforation area.
8. As a result of the encephalocele, the minor plaintiff was referred to a surgeon from the Lahey Clinic, who on or about December 5, 2000, performed a middle fossa craniectomy to repair the meningoencephalocele.
9. At or about this time, the plaintiff was informed that Dr. Arrigg had perforated the right typanic membrane during his surgery in September 2000, and as a result part of the brain "came through the hole."

10. Following this repair surgery, on December 5, 2000, and as a result of the perforation by Dr. Arrigg, the plaintiff developed further, severe complications, including but not limited to a cholesteatoma, brain abscess and deafness in the right ear, all of which resulted in three more surgeries, on or about December 9, 2000, December 27, 2001 and July 26, 2002 respectively.

COUNT I

(Negligence)

(Terri J. Pedato v. Fred H. Arrigg, Jr., M.D.)

10. Plaintiff incorporates each and every allegation herein, paragraphs 1 through ten.

11. That on or about September 9, 2000, the defendant, Fred H. Arrigg, Jr., M.D., provided substandard surgical care to the plaintiff, Richard Morrill, and as a result of said substandard care and negligence he perforated the plaintiff's right tympanic membrane during the surgery.

12. As a proximate result of the defendant's negligence, the minor plaintiff sustained severe injury, further complications, including but not limited to right-sided deafness, life-threatening infection, and required extensive medical care, hospitalization and a total of four surgeries to date, will require additional medical care, and has suffered a diminution of earning capacity, permanent disability and was otherwise injured as will be shown at the trial of this action. WHEREFORE, plaintiff, Terry Mandigo, demands judgment against the defendant, Fred H. Arrigg, Jr., M.D., in the sum of \$1,000,000.00.

PLAINTIFF DEMANDS TRIAL BY JURY ON EACH AND EVERY ISSUE

RAISED HEREIN

Dated: November 11, 2003

The Plaintiff,
By his attorney,
JOSEPH G. ABROMOVITZ, P.C.

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